

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION**

**ABRAHAM YARBROUGH and  
JOYCE YARBROUGH**

**PLAINTIFFS**

**V.**

**CIVIL ACTION NO. 2:02CV570SR**

**GOODYEAR TIRE AND RUBBER COMPANY, ET AL.**

**DEFENDANTS**

**MEMORANDUM OPINION AND JUDGMENT OF DISMISSAL**

The Complaint in this action was filed on July 16, 2002. Plaintiffs failed to serve the summons and complaint during the one hundred and twenty days allowed by F.R.Civ.P. 4(m). Plaintiffs also failed to request an extension of time within which to serve the summons and complaint.

On February 2, 2004, United States Magistrate Judge Roper entered an order allowing the plaintiffs an additional thirty days within which to serve the summons and complaint. Plaintiffs failed to serve the summons and complaint within this thirty day period.

On June 10, 2004, United States Magistrate Judge Roper entered a report and recommendation that this case be dismissed without prejudice for Plaintiffs' failure to comply with F.R.Civ.P. 4(m) and 41(b).

I find that the report and recommendation of United States Magistrate Judge Roper should be and hereby is adopted as the opinion of the Court.

Accordingly, it is

**ORDERED and ADJUDGED**

That this case is hereby **DISMISSED WITHOUT PREJUDICE** for the plaintiffs' failure to prosecute and failure to comply with F.R.Civ.P. 4(m) and 41(b).

**SO ORDERED** this 19<sup>th</sup> day of May, 2005.

*s/ L. T. Senter, Jr.*

**L. T. Senter, Jr.  
Senior Judge**